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Before The
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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MAR 11 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Revision of the Commission's
rules to ensure compatibility
with enhanced 911 emergency
calling systems

CC Docket No. 94-102

To: The Commission

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**REPLY COMMENTS OF ASSOCIATED RT, INC., A SUBSIDIARY OF
THE ASSOCIATED GROUP, INC. ON THE "CONSENSUS AGREEMENT"
BETWEEN CTIA AND PUBLIC SAFETY GROUPS**

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March 11, 1996

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SUMMARY

Associated RT, Inc. ("ART"), a wholly owned subsidiary of The Associated Group and a leader in cellular telephone location technology, fully supports the Phase II automatic location information ("ALI") recommendation contained in the Consensus Agreement. ART commends CTIA and the representatives of the public safety community for their efforts and urges the Commission to expeditiously adopt their recommendations.

The time for action has arrived. It is well documented that ALI will help save lives. ALI will permit public safety personnel to locate and assist mobile "911" callers in need of emergency help in situations where the callers do not know their location. Although some commenters have suggested that the Commission delay the adoption of Phase II ALI rules as proposed in the Consensus Agreement, this position is without merit. The industry has been afforded ample time in which to prepare for the adoption of an ALI requirement, and will have ample time in which to implement it.

The Commission is well aware that changes to both wireless, wireline and PSAP equipment will be required to realize the benefits of ALI, and that these changes are not without costs. As such, and consistent with the recommendations of the Consensus Agreement, the Commission should adopt an adequate compensation mechanism to fund the implementation and operation of Phase II.

In light of the nearly two years that have already elapsed since the ALI issue was first highlighted by the public safety community, the significant work already undertaken by ART and

others in developing ALI technology, and the fact that Phase II would not take effect for 5-years from the date an Order is adopted, there is no reason to believe that the Phase II deadline cannot be met.

The current lack of commercially available ALI technology must not be used as an excuse for failing to set a firm Phase II implementation deadline. Deployment of ALI has been stalled for economic, not technical reasons. The establishment of a specific implementation deadline and an adequate compensation mechanism will provide the necessary incentives to build upon the ALI work already completed, and bring finished ALI products to market.

Similarly, the adoption of a general ALI requirement must proceed even though not ALI technology has not been developed for all air interface standards. If the Commission waits to adopt an ALI requirement until location technology is developed for all air interfaces before it is required for any one, then it is possible that location systems would never be deployed. There is simply too much at stake to wait. In sum, the Commission should reject any approach that would implicitly or explicitly delay the availability of ALI.

Emergency situations arise every day, and timely location information obtained from a mobile telephone could mean the difference between life and death. Because of the compelling public interest at stake in this proceeding, ART urges the Commission to expeditiously adopt rules that will bring the benefits of ALI technology to the public as soon as possible.

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Pursuant to Sections 1.415 and 1.419 of the Commission's rules,¹ Associated RT, Inc. ("ART"), a wholly owned subsidiary of The Associated Group, Inc. ("Associated"), by its attorneys, herein submits its Reply to comments filed in response to the Commission's Public Notice regarding an *ex parte* presentation entitled "Public Safety-Wireless Industry Consensus: Wireless Compatibility Issues, CC Docket 94-102."²

The comments filed in response to the Consensus Agreement overwhelmingly support the two-step implementation plan for enhanced 911 service ("E911") advocated by the Cellular Telecommunications Industry Association ("CTIA") and

¹47 C.F.R. §§ 1.415, 1.419.

²DA 96-198 (released Feb. 16, 1996) ("Consensus Agreement").
See Notice of Proposed Rulemaking, CC Docket No. 94-102, 9 FCC Rcd 6170 (rel. Oct. 19, 1994) ("Notice").

representatives of the public safety community.³ ART, an industry leader in cellular telephone location technology, commends the parties for their efforts and urges the Commission to adopt the Phase II automatic location information ("ALI") recommendations contained in the Consensus Agreement.

I. THE CRITICAL NEED FOR AUTOMATIC LOCATION INFORMATION FOR WIRELESS SYSTEMS IS WELL ESTABLISHED

Wireless telephony represents a significant and growing percentage of communications in this country. There were approximately 32 million cellular telephones in service at the end of 1996, representing approximately 20% of the telephones in use.⁴ As indicated by the overwhelming response the Commission has received in the recently concluded A/B-block Personal Communications Services ("PCS") auction and the ongoing C-block PCS auction, it is clear that many people believe that wireless

³The Consensus Agreement proposes a two-step implementation schedule for E911. Phase I calls for implementation of cell site information, calling party automatic number identification, 911 availability from any service initialized mobile radio handset, 911 access for speech and hearing-impaired callers, and call-back capability. Phase II calls for automatic location of wireless callers within 125 meters.

⁴CTIA's June 30, 1995 survey placed the number of cellular subscribers at 28 million, and CTIA has indicated that as of December 30, 1995, there will be in excess of 32 million subscribers. This is a significant increase from just one year ago. As of February, 1995, there were approximately 25 million cellular subscribers, representing 17% of all telephones in use in the United States. See "Communications Daily" at 3 (February 27, 1995).

telephony will continue to experience rapid growth.⁵

The emergency authorities in this country have been charged with providing assistance in the case of life threatening situations. For over 2 years, these same authorities, under the aegis of the National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials ("APCO"), and the National Association of State Nine One One Administrators ("NASNA") have been attempting to educate the Commission and wireless service providers about a growing and serious problem.⁶ Namely, wireless based calls to "911" cannot and do not receive the same support and services as callers from landline telephones.⁷

As a result, a wireless caller to "911" faces a greater risk of death during a life threatening situation than if that same call had been placed from a landline telephone. Unlike landline "911" calls, emergency calls originated by mobile radio users do not provide public safety personnel with the caller's precise location. In the event a wireless 911 caller is unable to identify his/her whereabouts, automatic location information

⁵Approximately \$7.735 billion was raised in the A/B-block auction. This total was surpassed in Round 39 of the C-block auction, with net high bids totalling \$7.765 billion. See "PCS Week," Vol. 7, No. 10 at 2 (March 6, 1996). As of March 8, 1996 (through Round 43), the total high bids in the C-block had reached \$8.229 billion.

⁶See Notice at ¶2, fn. 4.

⁷See Notice at ¶10.

("ALI") could mean the difference between life and death.⁸ For example, during a recent train accident in northern New Jersey in which three people died and 162 people were injured, police frantically searched for the train while a cellular caller on the train desperately tried to describe the train's location.⁹ This tragedy may have been partially avoided if ALI capability had been in place.

In keeping with the Commission's statutory mandate to "promot[e] safety of life and property through the use of wire and radio communication,"¹⁰ the Commission should adopt the specific ALI requirements proposed in the Consensus Agreement. Such action is critical to ensure that public safety personnel will be able to locate and assist wireless 911 callers.¹¹ As

⁸According to CTIA, nearly 50,000 calls are made to "911" and other emergency numbers from wireless phones each day. See CTIA Press Release titled "Wireless Industry Commits To Enhancing Effectiveness of 9-1-1 Calls" (February 12, 1996). The number of emergency calls from mobile telephones will continue to grow as new subscribers are added to mobile networks.

⁹*Calm Passenger With a Cellular Phone Guided The Police to the Wreck*, New York Times, Feb. 11, 1996, at Section 1, p.53, col. 1 ("[The police dispatcher] asked me several times, 'Where are you? Where?'.... But there was no way to describe where we were because we were out in the middle of nowhere.").

¹⁰47 U.S.C. §151 (emphasis added).

¹¹It should be noted that as part of its efforts to implement the Telecommunications Act of 1996, Pub. L. No. 104-104, the Commission is currently considering whether E911 capabilities (such as ALI) should be included among the core services that receive universal service support. See In the Matter of Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking and Order Establishing Joint Board, CC Docket No. 96-45, FCC 96-93 (rel. Mar. 8, 1996) at ¶21. Although the Commission's inquiry is in the context of landline service, this
(continued...)

noted by the Commission, "[i]t is difficult to identify a nationwide wire or radio communication service more immediately associated with promoting safety of life and property than 911."¹² Accordingly, the compelling public interest nature of the wireless E911 problem requires immediate Commission action.

II. THE COMMISSION SHOULD ADOPT THE PHASE II ALI IMPLEMENTATION SCHEDULE AS PROPOSED IN THE CONSENSUS AGREEMENT

A. The Five Year ALI Implementation Schedule Proposed In The Consensus Agreement Is Realistic

While supporting the general framework of the Consensus Agreement, certain commenters expressed concern that it is premature to adopt a specific ALI implementation schedule.¹³ These concerns are misplaced. The need for ALI in saving lives has been clearly articulated, and as demonstrated by ART and others, the technology to meet this need has been developed.¹⁴ The Commission should reject any approach that would implicitly

¹¹(...continued)
further demonstrates the critical nature of E911 service with respect to health and safety.

¹²Notice at ¶7.

¹³See Personal Communications Industry Association ("PCIA") Comments at 11 ("... the Agreement's Phase II [ALI] implementation schedule is overly optimistic."); BellSouth Corporation ("BellSouth") Comments at 6 ("BellSouth supports Proponents' goal of achieving ALI of wireless callers within 125 meters RMS but believes that further standards work and other efforts ... are needed before a specific technical objective or implementation date are determined."); Southwestern Bell Mobile Systems, Inc. ("Southwestern Bell") Comments at 6 ("Phase II within 5 years should not be a rigid regulatory mandate but rather a goal based on the realities of the situation....").

¹⁴See Consensus Agreement at 2-3.

or explicitly delay the implementation of an ALI requirement for mobile service providers.

The industry has been afforded ample time in which to prepare for the adoption of an ALI requirement. The first emergency services Joint Expert Meeting ("JEM"), which identified ALI as a critical issue, was held in August, 1994.¹⁵ The Commission's Notice in this proceeding was issued in October, 1994. In light of the nearly two years that have already elapsed, the significant work already undertaken by ART and others, and the fact that Phase II would not take effect for 5-years from the date an Order is adopted, there is no reason to believe that the Phase II deadline cannot be met. This conclusion is shared by other commenters. For example, Motorola states that it

... believes that [a] five years [implementation schedule for ALI technology] is a facially reasonable timeframe because it is in Motorola's economic interest to develop a cost-effective wireless ALI system, it will continue to make every effort to do so.¹⁶

Certain commenters have implied that a specific ALI implementation schedule should not be adopted because the technology is not yet commercially available.¹⁷ This argument is without merit. The telecommunications industry has demonstrated time and time again its ability to respond quickly when incited or required to do so. For example, when the Commission first

¹⁵See Notice at ¶48.

¹⁶Motorola Comments at 7. See also KSI, Inc. Comments at 3.

¹⁷See PCIA Comments at 11.

entertained the concept of a new PCS band to augment the cellular spectrum, companies desiring a Pioneer Preference responded rapidly and with great fervor to demonstrate their technical creativity. When 1800 MHz was identified as the PCS band, the industry responded with numerous ideas for allocating spectrum and relocating existing users.

The lack of commercially available PCS systems did not impede the auctions or the enthusiastic bidding that resulted. In fact, the converse has occurred -- the auctions have engendered and fostered the development of new technologies. Similarly, the lack of completed development on satellite systems has not impeded the fervor of filing for low, medium and high earth orbit satellites. The Commission need look only to its recent past to see the significant benefits of establishing rules prior to the commercial availability of technology.

B. The Adoption Of A General ALI Requirement Must Proceed Even Though ALI Technology Has Not Been Developed For All Air Interface Standards

Although ALI technology has been demonstrated as a reality for mobile services, some commenters have been critical because development has not been completed for every air interface in the U.S.¹⁸ There are at least twelve air interfaces now used in some form, including AMPS, NAMPS, TDMA, E-TDMA, CDMA, ESMR, PCS 1900, Composite DCMA/TDMA, DACS, Wideband CDMA, GSM, and CDPD. There are not doubt others in use as well. PCIA has been particularly

¹⁸See PCIA Comments at 10-11; BellSouth Comments at 6; Motorola Comments at 8.

vocal in promoting equality for all air interface standards.¹⁹

The fact is that the market has not judged all of these air interface equally. According to CTIA estimates, at least 32 million phones support AMPS in the cellular band.²⁰ An estimated 1 million phones support some version of TDMA. The remaining air interfaces have far less penetration in the United States, and in fact, many have yet to be commercially deployed.²¹ PCIA's efforts are misguided in trying to discredit the location development performed for the market leading technologies; even PCIA would likely agree that prudent business judgment prevents spreading resources thinly across all technologies.

Beginning today, the Commission and the industry must focus on saving lives. If the Commission waits to adopt an ALI requirement until location technology is developed for all air interfaces before it be required for any one, as PCIA suggests, then it is possible that location systems would never be deployed. There could always be one more new air interface developed that could cause the whole process to be delayed. As PCIA pointed out, the C-block PCS winners have not yet been determined, and therefore their technology decisions are not yet

¹⁹See PCIA Comments at 4 (Jan. 9, 1995).

²⁰Supra, note 4.

²¹See *Ericsson Wins Order for \$200 Million In Argentina For Nationwide Digital AMPS Cellular Network*, Business Wire, Sept. 7, 1995 (According to Sven-Christer Nilsson, Vice President and General Manager of Ericsson's business unit, "[t]he Time Division Multiple Access ("TDMA") based standard, D-AMPS, is the only digital standard in commercial operation across North and South America.").

known.²² This, however, provides no justification for delay -- lives are at stake and time is of the essence.

Moreover, the Commission should note that while location systems have not been fully developed for all air interfaces, enough is known so that several general statements can be made regarding these systems:

AMPS and related systems have achieved the highest level of completion and have had the most demonstrated success. Technologies in these areas can meet the Consensus Agreement's proposed standard of 125 meters RMS. Because of the patch-work manner in which digital cellular systems will be deployed, it is likely that all digital cellular telephones will be dual-mode (meaning that the telephone supports AMPS/TDMA or AMPS/CDMA) for many years to come. In supporting emergency services, it is possible that digital telephones be expected to operate in their analog (AMPS) mode as a fallback.

TDMA and related systems are similar to AMPS in that the channel structure is high power, narrow band. The modulation is different, of course, and so there are added complexities. Nevertheless, it is reasonable to expect similar performance to AMPS at similar cost.

CDMA and related systems are very different than AMPS and TDMA because of bandwidth and the interference limited nature of the systems. The wider bandwidth presents additional benefits while the lower signal level and interference presents additional problems. CDMA is certainly the most difficult of the three classes of systems, but it is expected that solutions can be made available. It is possible that CDMA based solutions may be more expensive than AMPS and/or TDMA based solutions. Unfortunately, CDMA system deployment is in its infancy, and little is known about final system configuration.

In sum, implementing the Consensus Agreement would allow the marketplace to choose the technology winners and losers. As noted earlier, the marketplace has shown its ability to decide on the best technology solutions. It is quite possible that no

²²PCIA Comments at 5.

manufacturer elects to implement a location technology for some air interfaces. These air interfaces will then be judged weak or inferior; presumably carriers would then migrate to a better supported air interface standard. Once a carrier implements ALI, it will be better positioned to implement a marketing strategy emphasizing safety and security, enhancing the appeal of its service to the universe of potential subscribers.

C. Timely Commercial Availability Of ALI Technology Will Require The Cooperation Of Manufacturers, Carriers and The Public Safety Community

Because of its use in emergency situations, the development of location systems cannot be carried out in a vacuum. There is no laboratory substitute for live field trials in a variety of terrain and conditions. Additionally, field trials are required to refine the product even after the technology has long been proven. ART has been fortunate in obtaining cooperation for field trials in three major cellular markets: Rochester, Philadelphia, and Baltimore.²³ With the cooperation of the local carriers and the public safety community, ART has been able to further develop its ALI technology and demonstrate very favorable results under harsh conditions.²⁴

²³See Consensus Agreement at 2-3.

²⁴Certain commenters expressed concern regarding the ability of existing ALI technology to work in a rural setting. See Rural Cellular Association Comments at 3; Ad Hoc Rural Cellular Coalition Comments at 4. It is a fallacy to assume that the same technology necessarily applies to all markets. In rural areas for example, location systems can in theory be implemented with
(continued...)

ART remains grateful for the assistance that it has received. However, further assistance is required for additional field trials in a number of other cellular markets. Requests for trials have been made in conjunction with the enthusiastic support of the local "911" authorities. Several of these requests have been significantly delayed primarily due to resource constraints on the part of the carriers. Some carriers have suggested in their comments that they have not yet had any experience with location systems.²⁵ ART demonstrated its willingness and resource availability to a number of carriers, and awaits their support.

Unfortunately, ALI development finds itself in a catch-22 situation: Final product and application development can only be fully completed to the industry's satisfaction with field trial support, but insufficient resources are being allocated by the carriers to field trials. The lack of field trials is then identified as grounds for delaying implementation of the proposed ALI requirement. Clearly, this catch-22 can only be broken by the Commission's adoption of a specific ALI implementation schedule. A date certain, together with an adequate compensation mechanism as discussed below, will provide the incentives needed

²⁴(...continued)
fewer than three cell sites. The military has used such location systems in battlefield conditions when it is impossible, impractical, or too risky to erect three towers. While it is not certain that the cost to implement rural and urban markets will be comparable, cost is a separate matter that can be resolved independently of the technological feasibility issue.

²⁵See e.g., GTE Comments at 4.

to bring the parties together to complete the testing required for commercial introduction.

D. The Consensus Agreement Represents A Reasonable Solution Achieved By A Majority Of The Interested Parties

A number of commenters have complained that their input was not sought in the Consensus Agreement.²⁶ As the Commission is aware, it is often impossible to achieve unanimity on any given topic. The Commission should note that CTIA membership comprises most cellular and PCS companies, and the CTIA board that approved the Consensus Agreement certainly represents the overwhelming majority of the wireless subscribers and service providers in this country. Democratic decision making is the very foundation of this country and the wireless industry, in conjunction with the public safety community, has cast its vote in favor of a Commission resolution to the wireless ALI problem that will serve the public interest while still providing a reasonable time period in which to implement the proposed rules.

Many of the dissenting commenters represent minority opinions, which must be heard but weighted accordingly. The Commission should note that no dissenting opinions on the Consensus Agreement were received from the two largest infrastructure suppliers: Ericsson and Lucent Technologies (previously AT&T Network Systems), nor from many of the largest carriers: AT&T/McCaw, Bell Atlantic Nynex Mobile Systems,

²⁶See PCIA Comments at 5; BellSouth Comments at 3; Ad Hoc Alliance for Public Access to 911 at 7.

AirTouch Communications, and Ameritech Cellular Services. In addition, comments submitted by Southwestern Bell and US West, Inc. were generally in favor of the Consensus Agreement, with the emphasis on economic and not technology issues.

E. The Timely Implementation Of The Phase II ALI Requirement Will Be Dependent On The Creation Of An Adequate Compensation Mechanism

The Consensus Agreement correctly noted that "[i]n moving to Phase II, a [compensation] mechanism is needed to fund both carrier (wireless and wireline) and PSAP investment in E9-1-1 technology and 9-1-1 cost of service."²⁷ Commenters uniformly agreed with this conclusion.²⁸ ART urges the Commission to recognize that for the two years that the need for location information has been shouted by the "911" community, the deployment of this technology has been stalled by economic, not technical reasons. Whatever mechanism is ultimately chosen, ART urges the Commission to act promptly to minimize the number of lives further jeopardized. Accordingly, the adoption of an adequate compensation mechanism is critical to ensure the timely implementation of the proposed Phase II ALI requirement.²⁹

²⁷Consensus Agreement at 3.

²⁸See GTE Comments at 8; Southwestern Bell Comments at 6; Rural Cellular Association Comments at 5-6.

²⁹The Commission has in the past required significant expenditure for reasons much less compelling than the public safety issues at stake in this proceeding. For example, the Commission's rules require call aggregators to ensure that any of its equipment presubscribed to a provider of operator services allows the consumer to use equal access codes to obtain access to
(continued...)

The Commission should also note that the financial burden of implementing locations systems will be shared by applications and services other than "911" ALI. Location services of all kinds are becoming an important part of the mobile services marketplace. Various wireless carriers now offer location-based billing plans with names such as "Tele-Go", "Talk-A-Long" and "GO" (Geographic Option). The use of Global Positioning Systems ("GPS") is continuing to grow rapidly,³⁰ and some automobile product lines such as Lincoln and Cadillac are starting to offer location systems as optional features on their cars.³¹

With all of this activity present in addition to "911" ALI, the Commission can be assured that the location technology requirements suggested by the Notice are not of single use or of limited value. In fact, it is likely that creative marketers will quickly turn a "government requirement" into marketplace advantage. For example, the automobile industry at first decried the added cost of airbags as unnecessarily raising the price and

²⁹(...continued)
the customer's desired provider of operator services. See 47 C.F.R. §64.704.

³⁰Civilian use of GPS now exceeds that of the military. See *Civilian Uses Are Proposed For Satellites*, N.Y. Times, June 1, 1995, at Sec. A, p. 23, col. 1. Moreover, recent press reports indicate that the Clinton Administration is set to relax the "selective availability" security feature that deliberately degrades the accuracy of signals for most nonmilitary users. See *Finding Profit in Aiding the Lost*, N.Y. Times, March 5, 1996, at Sec. D, p.1, col. 2.

³¹See *General Motors Plans to Plug Cadillacs Into Automatic Communications System*, Wall Street J., February 9, 1996, at Sec. B, p.3, col. 1.

depressing the market for new vehicles. It was not long, however, before selected manufacturers began featuring, as an advantage, driver side and passenger side airbags well in advance of government compliance deadlines.

Each carrier will ultimately select and implement its own location system. However, if the carriers are unable or unwilling to implement location systems in the timetable proposed by the Consensus Agreement, the Commission might consider altering its rules to permit organizations with the technology and resources to implement location systems to assume the responsibility for constructing the systems. These organizations would naturally expect compensation similar to what the carrier would have received if the carrier had implemented the 911 ALI system. While the Phase I requirements of the Agreement can be met only by the carrier (since this information is sourced at the mobile switch), the Phase II requirements can be met by a passive, receive-only overlay system that does not interfere with the operation of the wireless network and requires only minimal resources on the part of the carrier.³² Thus, those willing and able to provide services and efficiently allocate resources should be afforded the opportunity to do so.

³²This support would include, for example, access to cell sites, access to data base records for call identification, and joint interfaces to the "911" tandem.

III. CONCLUSION

The Commission has encouraged wireless communications by the creation of the cellular and PCS industries, and by permitting market forces to be creative in the development and deployment of new technologies. Unfortunately, in embracing wireless communications, the level of public safety has been inadvertently decreased to dangerous levels. Life threatening situations arise every week, if not every day, whereby timely location information could mean the difference between saving a life and losing one.

The compelling need for automatic location information in the context of wireless systems, which has been recognized for nearly two years, has encouraged a number of companies to develop such technology. CTIA and the public safety community should be congratulated for their constructive efforts to move this important process forward. However, lives continue to be at risk and time is of the essence. The Commission must expeditiously take the steps outlined in the Consensus Agreement to ensure that

ALI technology is fully utilized in helping the "911" industry meet the needs of the public.

Respectfully submitted,

**ASSOCIATED RT, INC., A SUBSIDIARY
OF THE ASSOCIATED GROUP, INC.**

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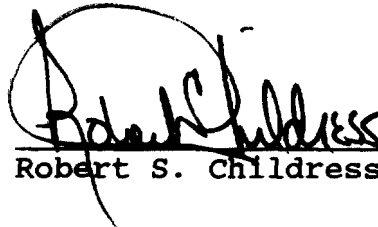
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CERTIFICATE OF SERVICE

I, Robert S. Childress, a secretary at the law firm of Fleischman and Walsh, L.L.P., hereby certify that a copy of the foregoing "Reply Comments of Associated RT, Inc., A Subsidiary of The Associated Group on the 'Consensus Agreement' Between CTIA and Public Safety Groups" was served this 11th day of March, 1996, via first class mail, postage prepaid, upon each of the parties identified on the following pages.


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